

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
Shumari McCormick, Chequan McClain and Roger
Goulbourne,

Plaintiffs

-against-

City of New York, New York City Police Department
New York City Police Officer David Terrell, Shield 16032
of the 42 Precinct and New York City Police Officers John
Doe,

Defendants
-----X

:
:
: VERIFIED COMPLAINT
:

Plaintiff, by and through his attorney, JASON A. STEINBERGER, Esq, for his complaint,
alleges upon information and belief as follows:

STATEMENT OF FACTS

1. That at all times hereinafter mentioned, Plaintiff Shumari McCormick, (hereinafter referred to as "MCCORMICK") is a resident of Bronx County, State of New York.
2. That at all times hereinafter mentioned, Plaintiff Chequan McClain, (hereinafter referred to as "MCCLAIN") is a resident of Bronx County, State of New York.
3. That at all times hereinafter mentioned, Plaintiff Roger Goulbourne (hereinafter referred to as "GOULBOURNE") is a resident of Bronx County, State of New York.
4. That at all times hereinafter mentioned, the New York City Police Officer David Terrell, (hereinafter referred to as "TERRELL") was employed by the New York City Police Department.

5. That at all times hereinafter mentioned, the New York City Police Officers John Doe, (hereinafter referred to as “DOES”) were employed by the New York City Police Department.

6. That at all times hereinafter mentioned, Defendant City of New York, is a municipal corporation organized and existing under the laws of the State of New York, with a principal place of business located at 1 Centre Street, County of New York State of New York.

7. That at all times hereinafter mentioned, Defendant New York City Police Department, is an agency created and maintained by the above municipal government.

8. On or about May 15, 2014 notice required by Municipal Law 50-E was given to City of New York, by personal service. Said notice set forth the facts underlying Plaintiffs’ claim against the City of New York, and its agents and employees. To date, no answer has been received by Plaintiff and no compensation has been offered by the City of New York.

9. On or about June 23, 2014, a hearing required by Municipal Law 50-H was conducted. At said hearing, Plaintiffs testified and set forth the facts underlying Plaintiffs’ claim against the City of New York and its agents and employees. To date, no answer has been received by Plaintiff and no compensation has been offered by the City of New York in response to this claim, and more than thirty (30) days have elapsed.

10. That on or about April 10, 2014 at approximately 3:45PM in the vicinity of 1064 Cauldwell Avenue, Bronx, NY Plaintiffs were playing video games without engaging in any unlawful or illegal conduct.

11. That at no time prior to their arrest, were Plaintiffs in possession of anything of an illegal or unlawful nature.

12. That TERRELL and DOES handcuffed and arrested Plaintiffs.

13. That Plaintiffs were arrested, they were transported to the 42 police precinct.

14. That while Plaintiffs were inside of the 42 precinct, Plaintiffs were held in a holding cell occupied with other males for several hours.

15. That while at the 42 precinct, Plaintiffs were subjected to a strip search.

16. That after several hours Plaintiffs were transported to Bronx County Central Booking located at 215 East 161 Street, Bronx, NY.

17. That Plaintiffs were then held for several hours in a cell occupied with other men for several hours.

18. That Plaintiffs were inside of a cell that did not have a working toilet.

19. That Plaintiffs were subjected to harassment by other male prisoners.

20. That on April 12, 2014, Plaintiffs were each arraigned on charges of Criminal Possession of a Controlled Substance in the Fifth Degree and related charges.

21. That at the time of the arraignment, Plaintiffs were each released on their own recognizance and ordered to return to court on April 16, 2014.

22. That on April 16, 2014, the case against Plaintiffs were dismissed upon application of the Office of the Bronx District Attorney.

AS AND FOR A FIRST CAUSE OF ACTION AGAINST DEFENDANTS

23. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 22, as if more fully stated herein at length.

24. That Defendants acted with actual malice toward Plaintiff MCCORMICK and with willful and wanton indifference to and deliberate disregard for the statutory and constitutional rights of the Plaintiff.

25. That the actions of the Defendants constituted unreasonable deprivation of liberty without due process of law.

26. That as a result of the actions by Defendants, Plaintiff MCCORMICK was traumatized and fears his physical safety when he sees and encounters members of the New York City Police Department from that day and onward.

27. That as a result of the Defendants' actions, Plaintiff MCCORMICK has been unable to sleep.

28. That as a result of the Defendants' actions, Plaintiff MCCORMICK missed multiple days of work.

29. That as a result of the Defendants' actions Plaintiff MCCORMICK sustained damage to his person in the sum within the jurisdiction of the Supreme Court and in excess of all inferior courts.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS

30. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 31, as if more fully stated herein at length.

31. The intentional verbal abuse, false arrest and false imprisonment by Defendants violated the rights of the Plaintiff MCCORMICK as guaranteed by the Fourth, Fifth and Eighth Amendments to the United States Constitution, as well as the corresponding sections of the New York State Constitution, for which Defendants are individually liable.

32. Defendants having no lawful authority to arrest Plaintiff MCCORMICK, did, nevertheless, unlawfully arrest Plaintiff MCCORMICK with actual malice toward him and with willful and wanton indifference to and deliberate disregard for his constitutional rights. Thus Plaintiff MCCORMICK is entitled to both compensatory and exemplary damages.

AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANTS

33. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 32, as if more fully stated herein at length.

34. Defendants conspired to violate Plaintiff MCCORMICK's statutory civil rights in violation of 42 U.S.C. sec.1983, et al as well as the corresponding sections of the New York State Constitution, for which Defendants are individually liable. Thus Plaintiff MCCORMICK is entitled to both compensatory and exemplary damages, as well as attorney's fees.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANTS

35. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 34, as if more fully stated herein at length.

36. Plaintiff MCCORMICK was verbally abused, falsely arrested and falsely imprisoned by Defendants in a manner that was extreme, outrageous and unjustified and caused Plaintiff MCCORMICK to suffer physical and severe emotional distress for which the Defendants are individually liable. The verbal abuse, false arrest and false imprisonment on and of Plaintiff MCCORMICK by Defendants were unjustified and done with actual malice and wanton indifference to and deliberate disregard for human life and the rights of Plaintiff MCCORMICK. Plaintiff MCCORMICK is thus entitled to compensatory and exemplary damages.

**AS AND FOR A FIFTH CAUSE OF ACTION AS AGAINST CITY OF NEW YORK AND
NEW YORK CITY POLICE DEPARTMENT**

37. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 38, as if more fully stated herein at length.

38. At all times pertinent hereto, TERRELL and DOES were acting within the scope of their employment as officers of the New York City Police Department and City of New York.

39. The City of New York and New York City Police Department are each liable for compensatory damages under the doctrine of respondeat superior for the intentional torts that TERRELL and DOES committed within the scope of their employment.

**AS AND FOR A SIXTH CAUSE OF ACTION AS AGAINST CITY OF NEW YORK AND
NEW YORK CITY POLICE DEPARTMENT**

40. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 41, as if more fully stated herein at length.

41. The City of New York and New York City Police Department's failure to provide adequate training and supervision to its police officers constitutes a willful and wanton indifference and deliberate disregard for human life and the rights of private citizens, including Plaintiff MCCORMICK. Plaintiff MCCORMICK is thus entitled to compensatory exemplary damages.

**AS AND FOR A SEVENTH CAUSE OF ACTION AS AGAINST CITY OF NEW YORK
AND NEW YORK CITY POLICE DEPARTMENT**

42. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs 1 through 43, as if more fully stated herein at length.

43. Upon information and belief, the City of New York and New York City Police Department maintained a system of review of police conduct which was so untimely and cursory that it was ineffective and permitted and tolerated the unreasonable detention of Plaintiff MCCORMICK.

44. Upon information and belief, the City of New York and New York City Police Department maintained a system of review of police conduct which was so untimely and cursory that it was ineffective and permitted the wanton indifference to and deliberate disregard for the statutory and constitutional rights of Plaintiff MCCORMICK.

AS AND FOR AN EIGHTH CAUSE OF ACTION AGAINST DEFENDANTS

45. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 46 as if more fully stated herein at length.

46. That Defendants acted with actual malice toward Plaintiff MCCLAIN and with willful and wanton indifference to and deliberate disregard for the statutory and constitutional rights of the Plaintiff MCCLAIN.

47. That the actions of the Defendants constituted unreasonable deprivation of liberty without due process of law.

48. That as a result of the actions by Defendants, Plaintiff MCCLAIN was traumatized and fears for his physical safety when he sees and encounter members of the New York City Police Department from that day and onward.

49. That as a result of the Defendants' actions, Plaintiff MCCLAIN has been unable to sleep.

50. That as a result of the Defendants' actions, Plaintiff MCCLAIN missed multiple days of work.

51. That as a result of the Defendants' actions Plaintiff MCCLAIN sustained damage to his person in the sum within the jurisdiction of the Supreme Court and in excess of all inferior courts.

AS AND FOR A NINTH CAUSE OF ACTION AGAINST DEFENDANTS

52. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 53, as if more fully stated herein at length.

53. The intentional verbal abuse, false arrest and false imprisonment by Defendants violated the rights of Plaintiff MCCLAIN as guaranteed by the Fourth, Fifth and Eighth Amendments to the Unites States Constitution, as well as the corresponding sections of the New York State Constitution, for which Defendants are individually liable.

54. Defendants having no lawful authority to arrest Plaintiff MCCLAIN, did, nevertheless, unlawfully arrest Plaintiff MCCLAIN with actual malice toward him and with willful and wanton indifference to and deliberate disregard for his constitutional rights. Thus Plaintiff MCCLAIN is entitled to both compensatory and exemplary damages.

AS AND FOR A TENTH CAUSE OF ACTION AGAINST DEFENDANTS

55. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 54, as if more fully stated herein at length.

56. Defendants conspired to violate Plaintiff MCCLAIN's statutory civil rights in violation of 42 U.S.C. sec.1983, et al as well as the corresponding sections of the New York State Constitution, for which Defendants are individually liable. Thus Plaintiff MCCLAIN is entitled to both compensatory and exemplary damages, as well as attorney's fees.

AS AND FOR A ELEVENTH CAUSE OF ACTION AGAINST DEFENDANTS

57. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 56, as if more fully stated herein at length.

58. Plaintiff was verbally abused, falsely arrested and falsely imprisoned by Defendants in a manner that was extreme, outrageous and unjustified and caused Plaintiff MCCLAIN to suffer physical and severe emotional distress for which the Defendants are individually liable. The verbal abuse, false arrest and false imprisonment on and of Plaintiff MCCLAIN by Defendants was unjustified and done with actual malice and wanton indifference to and deliberate disregard for human life and the rights of Plaintiff MCCLAIN. Plaintiff MCCLAIN is thus entitled to compensatory and exemplary damages.

**AS AND FOR A TWELFTH CAUSE OF ACTION AGAINST CITY OF NEW YORK
AND NEW YORK CITY POLICE DEPARTMENT**

59. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 65, as if more fully stated herein at length.

60. At all times pertinent hereto, TERRELL and DOES were acting within the scope of their employment as officers of the New York City Police Department and City of New York.

61. The City of New York and New York City Police Department are each liable for compensatory damages under the doctrine of respondeat superior for the intentional torts that TERRELL and DOES committed within the scope of their employment.

AS AND FOR A THIRTEENTH CAUSE OF ACTION AS AGAINST CITY OF NEW YORK AND NEW YORK CITY POLICE DEPARTMENT

62. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 61, as if more fully stated herein at length.

63. The City of New York and New York City Police Department's failure to provide adequate training and supervision to its police officers constitutes a willful and wanton indifference and deliberate disregard for human life and the rights of private citizens, including Plaintiff MCCLAIN. Plaintiff MCCLAIN is thus entitled to compensatory exemplary damages.

AS AND FOR A FOURTEENTH CAUSE OF ACTION AS AGAINST CITY OF NEW YORK AND NEW YORK CITY POLICE DEPARTMENT

64. Plaintiff repeats, reiterates and realleges the allegations contained in paragraphs 1 through 63, as if more fully stated herein at length.

65. Upon information and belief, the City of New York and New York City Police Department maintained a system of review of police conduct which was so untimely and cursory that it was ineffective and permitted and tolerated the unreasonable detention of Plaintiff MCCLAIN.

66. Upon information and belief, the City of New York and New York City Police Department maintained a system of review of police conduct which was so untimely and cursory

that it was ineffective and permitted the wanton indifference to and deliberate disregard for the statutory and constitutional rights of Plaintiff MCCLAIN.

AS AND FOR AN FIFTEENTH CAUSE OF ACTION AS DEFENDANTS

67. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 68 as if more fully stated herein at length.

68. That Defendants acted with actual malice toward Plaintiff GOULBOURNE and with willful and wanton indifference to and deliberate disregard for the statutory and constitutional rights of the Plaintiff GOULBOURNE.

69. That the actions of the Defendants constituted unreasonable deprivation of liberty without due process of law.

70. That as a result of the actions by Defendants, Plaintiff GOULBOURNE was traumatized and fears for his physical safety when she sees and encounter members of the New York City Police Department from that day and onward.

71. That as a result of the Defendants' actions, Plaintiff GOULBOURNE has been unable to sleep.

72. That as a result of the Defendants' actions, Plaintiff GOULBOURNE missed multiple days of work.

73. That as a result of the Defendants' actions Plaintiff GOULBOURNE sustained damage to his persons in the sum within the jurisdiction of the Supreme Court and in excess of all inferior courts.

AS AND FOR A SIXTEENTH CAUSE OF ACTION AGAINST DEFENDANTS

74. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 73, as if more fully stated herein at length.

75. The intentional verbal abuse, false arrest and false imprisonment by Defendants violated the rights of Plaintiff GOULBOURNE as guaranteed by the Fourth, Fifth and Eighth Amendments to the United States Constitution, as well as the corresponding sections of the New York State Constitution, for which Defendants are individually liable.

76. Defendants having no lawful authority to arrest Plaintiff GOULBOURNE, did, nevertheless, unlawfully arrest Plaintiff GOULBOURNE with actual malice toward him and with willful and wanton indifference to and deliberate disregard for his constitutional rights. Thus Plaintiff GOULBOURNE is entitled to both compensatory and exemplary damages.

AS AND FOR A SEVENTEENTH CAUSE OF ACTION AGAINST DEFENDANTS

77. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 76, as if more fully stated herein at length.

78. Defendants conspired to violate Plaintiff GOULBOURNE's statutory civil rights in violation of 42 U.S.C. sec.1983, et al as well as the corresponding sections of the New York State Constitution, for which Defendants are individually liable. Thus Plaintiff GOULBOURNE is entitled to both compensatory and exemplary damages, as well as attorney's fees.

AS AND FOR A EIGHTEENTH CAUSE OF ACTION AGAINST DEFENDANTS

79. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 78, as if more fully stated herein at length.

80. Plaintiff was verbally abused, falsely arrested and falsely imprisoned by Defendants in a manner that was extreme, outrageous and unjustified and caused Plaintiff GOULBOURNE to suffer physical and severe emotional distress for which the Defendants are individually liable. The verbal abuse, false arrest and false imprisonment on and of Plaintiff GOULBOURNE by Defendants was unjustified and done with actual malice and wanton indifference to and deliberate disregard for human life and the rights of Plaintiff GOULBOURNE. Plaintiff GOULBOURNE is thus entitled to compensatory and exemplary damages.

**AS AND FOR A NINETEENTH CAUSE OF ACTION AGAINST CITY OF NEW YORK
AND NEW YORK CITY POLICE DEPARTMENT**

81. Plaintiffs repeats, reiterates and realleges the allegations contained in paragraphs 1 through 82, as if more fully stated herein at length.

82. At all times pertinent hereto, TERRELL and DOES were acting within the scope of their employment as officers of the New York City Police Department and City of New York.

83. The City of New York and New York City Police Department are each liable for compensatory damages under the doctrine of respondeat superior for the intentional torts that TERRELL and DOES committed within the scope of their employment.

**AS AND FOR A TWENTIETH CAUSE OF ACTION AGAINST CITY OF NEW YORK
AND NEW YORK CITY POLICE DEPARTMENT**

84. Plaintiffs repeat, reiterates and realleges the allegations contained in paragraphs 1 through 83, as if more fully stated herein at length.

85. The City of New York and New York City Police Department's failure to provide adequate training and supervision to its police officers constitutes a willful and wanton indifference and deliberate disregard for human life and the rights of private citizens, including Plaintiff GOULBOURNE. Plaintiff GOULBOURNE is thus entitled to compensatory exemplary damages.

**AS AND FOR A TWENTY-FIRST CAUSE OF ACTION AS AGAINST CITY OF NEW
YORK AND NEW YORK CITY POLICE DEPARTMENT**

86. Plaintiffs repeat, reiterates and realleges the allegations contained in paragraphs 1 through 85, as if more fully stated herein at length.

87. Upon information and belief, the City of New York and New York City Police Department maintained a system of review of police conduct which was so untimely and cursory that it was ineffective and permitted and tolerated the unreasonable detention of Plaintiff GOULBOURNE.

88. Upon information and belief, the City of New York and New York City Police Department maintained a system of review of police conduct which was so untimely and cursory that it was ineffective and permitted the wanton indifference to and deliberate disregard for the statutory and constitutional rights of Plaintiff GOULBOURNE.

WHEREFORE, Plaintiffs each demand judgment against the Defendants as follows:

On the first cause of action, a sum within the jurisdiction of this Court and in excess of all inferior courts;

On the second cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts, together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the willful and wanton nature of Defendants actions.

On the third cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the willful and wanton nature of Defendants actions.

On the fourth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the wanton and willful nature of the Defendants actions;

On the fifth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts

On the sixth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts.

On the seventh cause of action, a sum within the jurisdiction of this Court and in excess of all inferior courts.

On the eighth cause of action, a sum within the jurisdiction of this Court and in excess of all inferior courts;

On the ninth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts, together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the willful and wanton nature of Defendants actions.

On the tenth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the willful and wanton nature of Defendants actions.

On the eleventh cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the wanton and willful nature of the Defendants actions;

On the twelfth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts

On the thirteenth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts.

On the fourteenth cause of action, a sum within the jurisdiction of this Court and in excess of all inferior courts.

On the fifteenth cause of action, a sum within the jurisdiction of this Court and in excess of all inferior courts;

On the sixteenth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts, together with the additional exemplary sum within the jurisdiction

of this court and in excess of all inferior courts owing to the willful and wanton nature of Defendants actions.

On the seventeenth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the willful and wanton nature of Defendants actions.

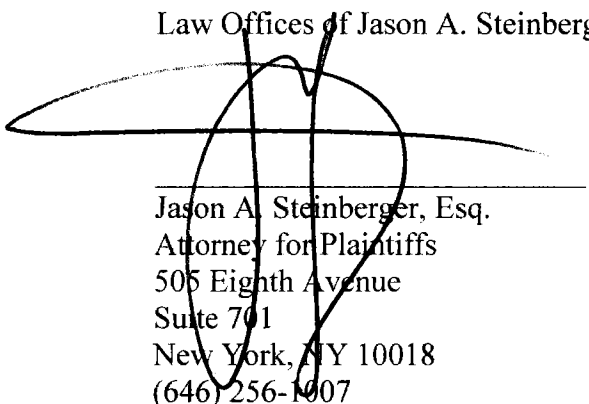
On the eighteenth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts owing to the wanton and willful nature of the Defendants actions;

On the nineteenth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts

On the twentieth cause of action, a sum within the jurisdiction of the of this Court and in excess of all inferior courts together with the additional exemplary sum within the jurisdiction of this court and in excess of all inferior courts.

On the twenty-first cause of action, a sum within the jurisdiction of this Court and in excess of all inferior courts.

Law Offices of Jason A. Steinberger, LLC

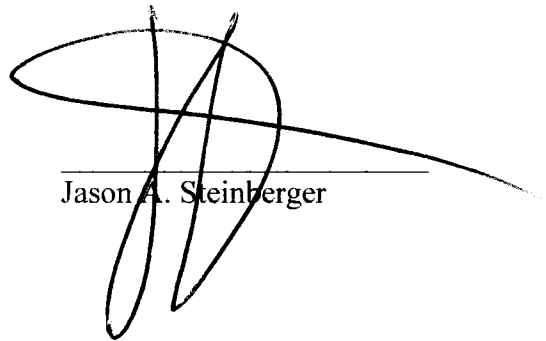


Jason A. Steinberger, Esq.
Attorney for Plaintiffs
505 Eighth Avenue
Suite 701
New York, NY 10018
(646) 256-1007

STATE OF NEW YORK: COUNTY OF NEW YORK

The undersigned, an attorney admitted to practice in the State of New York, under penalties of perjury, affirms the following to be true: Affirmant has read the foregoing Complaint and the contents thereof ; the same is true to affirmant's own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters affirmant believes it to be true; and the reason this verification is made by affirmant and not by the plaintiff is because the plaintiff is not within the county in which your affirmant maintains his principal office. The grounds of affirmant's belief as to all matters not stated upon affirmant's knowledge are communications with the plaintiff, review of records and documents within affirmant's possession.

Affirmed: July 7, 2015



Jason A. Steinberger

Index Number:
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

SHUMARI MCCORMICK, CHEQUAN MCCLAIN AND ROGER GOULBOURNE,

Plaintiffs

-against-

**CITY OF NEW YORK, NEW YORK CITY POLICE DEPARTMENT POLICE, NEW
YORK CITY POLICE OFFICER DAVID TERRELL, SHIELD 16032 OF THE 42
PRECINCT AND NEW YORK CITY POLICE OFFICERS JOHN DOE,**

Defendant.

SUMMONS AND COMPLAINT

LAW OFFICES OF JASON A. STEINBERGER, LLC

505 Eighth Avenue
Suite 701
New York, NY 10018

To:
Attorney (s) for Defendant(s)

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

☐ that the within is a (certified) true copy of
☐ entered in the office of the clerk of the within named Court on

**NOTICE
OF ENTRY**

☐ that an Order of which the within is a true copy will be presented for settlement to the Hon.
NOTICE OF once of the Judges of the within named Court,
SETTLEMENT at

on

200 , at m.

Dated:

JASON A. STEINBERGER, ESQ.
505 Eighth Avenue, Suite 701
New York, NY 10018

To:
Attorney(s) for